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VIA ELECTRONIC FILING

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

RE: Docket No. 2018-217-E, Filing in Response to the Commission's Directive in Order No. 2018-459.

Dear Ms. Boyd:

On July 2, 2018, the Public Service Commission of South Carolina (the "Commission") met to consider action in response to House Bill 4375 ("H. 4375"), which amends the Base Load Review Act, S.C. Code Ann. §§ 58-33-210, *et seq.* (the "BLRA") in a number of ways. At that meeting, the Commission adopted Order No. 2018-459, which mandated a \$367,364,487 reduction of SCE&G's revenue without hearing. It also directed SCE&G to provide: (a) certain tariff sheets related to this reduction; and (b) a reconciliation demonstrating that the rate revisions proposed produce the revenue reductions ordered by the Commission.

The Commission adopted its directive orally at its 2:00 p.m. meeting on July 2, 2018, and ordered SCE&G provide the required data and analysis in writing by 11:00 a.m. today. The requested tariff sheets are attached as **Exhibit A** to this letter, and the requested reconciliation is attached hereto as **Exhibit B**.

SCE&G provides the following information to clarify the calculations and tariff sheets filed with this letter and those filed with the Commission by letter dated July 2, 2018 (the "July 2 Letter").

Decrement Rider: In Order No. 2018-459, the Commission characterizes the tariff sheet filed by SCE&G as Exhibit 1 to its July 2 Letter as a "summary tariff sheet." SCE&G, however, respectfully suggests that the H. 4375 Decrement Rider as set forth on that tariff sheet constitutes a fully functioning and complete decrement rider, which can, and should, be adopted in the form

presented. All required elements for the effective implementation of the rate reductions decreed by H. 4375 are contained in the H. 4375 Decrement Rider.

Specifically, the H. 4375 Decrement Rider sets out the precise reduction in each billing component of each retail electric rate that is necessary to off-set each increase in those components that was granted under the six revised rate orders that the General Assembly has singled out to be legislatively revoked, at least temporarily.

SCE&G submits that embedding these rate reductions in customers' standard rates and charges – as Order No. 2018-459 seems to suggest – would make it more difficult to show customers where these reductions are reflected in the tariffs, how they were computed, and why customers can be satisfied that they have received the legislatively decreed reductions they now expect. Given the public attention that has been given to this matter, it is important that the tariff sheets adopted here support the ability for customers to see and confirm their rate reductions as simply and understandably as possible. SCE&G submits that a decrement rider is the best way to do that.

The Exhibit A Tariff Sheets: The tariff sheets attached to this letter as Exhibit A show for each component of SCE&G's retail rates (a) the current rate applicable to that component, (b) the decrement to that component provided in the H. 4375 Decrement Rider, and (c) the resulting rate that is generated by applying that decrement to the current rates. SCE&G would submit that while these tariffs sheets are useful for showing the Commission and parties how the decrements will be applied, they would likely appear confusing to certain customers and their complexity could detract from customer understanding of the rate reductions if adopted as SCE&G's formal tariff sheets. For this reason, SCE&G would request that these tariff sheets be accepted for informational purposes but not be adopted as official tariff sheets.

Calculation of the Rate Reduction Decrements: The tariff sheets attached as *Exhibit A* to this letter show the specific reductions necessary to offset the increases that the Commission properly authorized and approved under the six revised rate orders which increases H. 4375 legislatively revokes. The H. 4375 Decrement Rider removes those specific increases by identifying and offsetting the precise increases in each billing component that were authorized by each of the six revised rates orders that the General Assembly has ordered the Commission effectively to revoke. The decrement rider reduces the rates in precisely the same way that they were increased by the six orders singled out for revocation.

As clearly unlawful as is H. 4375 and its mandate that the Commission unwind years of duly approved rate adjustments in a matter of five days, SCE&G submits that there is no more precise way to give it effect than to specifically identify and offset, through decrements, the precise rate adjustments that the General Assembly has legislatively revoked. Alternatively, SCE&G could: (1) identify a revenue requirement reduction; (2) identify a test period; (3) make pro-forma adjustments to billings and revenue results during that test period; (4) calculate appropriate demand allocator for rate class during that test period; and then (5) engage in rate design for each rate and each component of each rate to allocate the rate reductions to rates and billing components. Creating a wholly-new cost allocation and rate design is a complex and difficult process. It greatly increases the possibility of error, dispute, and disagreement. It also

requires weeks to complete, and the result would not be more accurate or appropriate than the decrement rider that SCE&G proposes herein which is based on precisely the rate adjustments – in reverse– that ORS reviewed, approved and formally represented to the Commission were appropriate in amount and rate design in six separate revised rates reports.

Refunds: In its July 2 Letter, SCE&G specifically stated that it is challenging all aspects of H. 4375 as illegal and unconstitutional. This challenge to the legality of the act applies with particular force to the retroactive and unconstitutional refunds contemplated by Section 58-34-20 of H. 4375. SCE&G continues to reserve all rights to argue that Section 58-34-20 of H. 4375 cannot, and should not, be interpreted as allowing retroactive rate refunds, both as a matter of statutory construction and of constitutional and regulatory law. It is axiomatic that, whenever possible, statutes should be construed in a way that is consistent with the constitution and other laws. *See Hodges v. Rainey*, 341 S.C. 79, 91, 533 S.E.2d 578, 584 (2000) (“The goal of statutory construction is to harmonize conflicting statutes whenever possible and to prevent an interpretation that would lead to a result that is plainly absurd.”). These canons of constitutional interpretation and statutory construction argue forcefully against interpreting Section 58-34-20 as authorizing retroactive rate reductions and refunds.

In the July 2 Letter, SCE&G proposed a practical and orderly method for implementing refunds under Section 58-34-20 of H. 4375. This was done purely in the interest of the orderly administration of rates and regulatory requirements. It should not in any way be taken to imply that SCE&G believes that ordering refunds represents a proper interpretation of Section 58-34-20 of H. 4375, or would otherwise be a lawful application of it. SCE&G does not waive any claims related to the legality or proper interpretation H. 4375.

Respectfully submitted,

/s/ Belton T. Zeigler

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